



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/547,409	04/12/2000	Gregory M. Finn	FINN-002	5799

7590 12/20/2004

BRUCE G. BERNSTEIN  
111 GLENWOOD ROAD  
M-  
MERION STATION, PA 19066

EXAMINER

GRAHAM, CLEMENT B

ART UNIT PAPER NUMBER

3628

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/547,409

**Applicant(s)**

FINN ET AL.

**Examiner**

Clement B Graham

**Art Unit**

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 9-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

#### DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/09/2004 has been entered.
2. Claims 1-6 and 8-20, remained pending and claim 7 has been cancelled and claim 21 has been added.

#### Claim Rejections - 35 USC § 103

- 3 The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 and 8-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Keiser et al (Hereinafter Keiser U.S. Patent No.6, 505, 174) in view of Wallman. (U.S. Patent No.6, 601, 044).

As per claim 1, Keiser discloses an investment system comprising: an investment vehicle the investment vehicle ("i. e, financial management system") and enabling an investor ("i. e, client computers") to selectively ("i. e, see column 2 line 60") buy and sell interests("i. e, asset rights ") in each of a plurality of different individual securities traded and on at least one financial market(Note abstract and See column 2 lines 10-20) and a graphical user interface.(see column 2 lines 60-65) and, each of the orders can include one or more limit requests, and each of the one or more limit requests can apply to a plurality of securities included in the order. (see column 20 lines 50-63 and column 2 lines 10-20 and column 23 lines 63-67 and column 24 lines 1-15).

Keiser fails to explicitly teach, wherein for each of the plurality of individual securities, interests in the security which are bought or sold by the investor can correspond to a selected fractionalized market unit of the security, wherein the investment system enables the investor to organize using graphical user interface, holdings in the corresponding accounts into one or more groups that can be defined by the investors to suit the investors portfolio structuring desires, and wherein, the investor can specify an allocation factor for each security and for each group included in the account, the allocation factor for a group specifying a percentage of a total amount to be used to purchase interests in securities for the account, and the allocation factor for a security specifying a percentage of a total amount to be used to purchase interests in securities for the group in which the security is located, or if the security is not in a group, a percentage of the total amount to be used to purchase interests in securities for the account and where the system enables the investor to transmit to the investment vehicle orders to buy and sell the interest in the plurality of securities.

However Wallman disclose a computer-based system, without incurring any additional costs, investors to purchase or sell small-and even fractional-units of shares (See column 21 lines 15-60) and an investor program that allows an investor to create and modify an investor portfolio according to the investor's desired (see column 12 line 50 and column 17 lines 20-30 and column 19 lines 45-65 and column 20 line 5-15) and additionally, if a group of investors so desire, the investors can all provide information to the system so that other investors who they permit or who are in their same group can have access to the overall portfolio of the group as a whole--either for monitoring purposes or for analysis or for trade execution. In such instance the system would identify the group as a separate group within the general demographic database, and access to the portfolio and securities maintained by the group or the leaders of the group would be permitted to members of the group (see column 40 lines 30-35) and allocating a total dollar amount being invested by the investor among a plurality of assets or liabilities meeting a criteria entered by the investor by allocating to each of the plurality of assets or liabilities one of equal dollar amounts and capitalization-weighted dollar amounts (See column 51 lines 25-30) and in addition, the system of the present

Art Unit: 3628

invention optionally includes an investor program executing on an investor's personal computer, which program prompts the investor for investor identification information and investor preferences, transmits investor identification and investor preferences to the processor, and enables the investor to interact with the processor to select multiple assets/liabilities to create an investor portfolio commensurate with the percentage allocation of investment assets. The investor program can include a graphical investor interface displaying a risk and a differential return of the entire investor portfolio relative to standard industry measurements to the investor and on absolute scales. Also, the investor program enables the investor to adjust the percentage allocation of investment assets and the investor portfolio. Moreover, the investor program communicates to the processor as trading data via one of the communication links investor identification information along with any trades of assets/liabilities to be executed to create or modify an investor's portfolio to ensure an investor's actual portfolio matches an investor's desired portfolio (see column 12 lines 35-50) and unlike all traditional brokerages that charge a commission or a fee based on a per transaction basis, or that receive their compensation (including items like payment for order flow) on a per share or per trade basis because they make their money from investors trading, the investor under the present invention can be charged a flat periodic fee (such as a monthly or annual fee as might be charged by certain financial planners) or an asset based fee comprised of a certain amount of the assets held in the system (such as are usually charged by mutual funds), or a combination of such periodic and asset based fees, or a combination of such fees and a transaction based fee (see column 12 line 65 and column 13 line 5) and allocation factor for security specifying a percentage of total amount (See column 26 lines 10-25 and column 27 lines 30-35 and column 11 lines 30-40) and allows for investors, with expert assistance, to create, manage and modify a complex portfolio that reflects the investor's own preferences it allows the investor to ensure that his portfolio is diversified and that it reflects the level of risk he wishes to assume. The computer-based system of the present invention also increases the investor's control over matters like what stocks he owns, the taxes he pays, and how his shares will be voted. And it permits him to purchase and sell whole portfolios and specific securities, and fractional

interests in shares of securities--all for a low cost that is less than or competitive to trades of single securities through discount brokers or having an interest in mutual funds.(see column 42 lines 5-19 and column 37 lines 29-57)and brokers generally execute trades when received, thereby providing "immediate" executions. There are exceptions, however. For example, a trade can be a "limit" order meaning that it can be executed only at a specific price or better. Limit orders are generally executed immediately whenever the price reaches the limit. Trades can also be set for execution at the "open" or "close," meaning the trade will be executed as part of the opening or closing call auction procedures, or upon the satisfaction of certain other conditions or at certain other times as the customer may specify.(see column 8 lines 14-23).

Therefore it would have been to one of ordinary skill in the art at the time the invention was made to modify the teachings of Keiser to include wherein for each of the plurality of individual securities, interests in the security which are bought or sold by the investor can correspond to a selected fractionalized market unit of the security, wherein the investment system enables the investor to organize using graphical user interface, holdings in the corresponding accounts into one or more groups that can be defined by the investors to suit the investors portfolio structuring desires, and wherein, the investor can specify an allocation factor for each security and for each group included in the account, the allocation factor for a group specifying a percentage of a total amount to be used to purchase interests in securities for the account, and the allocation factor for a security specifying a percentage of a total amount to be to be used to purchase interests in securities for the group in which the security is located, or if the security is not in a group, a percentage of the total amount to be used to purchase interests in securities for the account and where the system enables the investor to transmit to the investment vehicle orders to buy and sell the interest in the plurality of securities taught by Wallman in order to electronically trade and invest in securities or other assets, rights or liabilities, such as commodities or futures. More particularly, the present invention relates to a method and apparatus for electronically trading over wired and wireless networks, including over the Internet, and investing in securities or other assets, rights

Art Unit: 3628

or liabilities that enables a user, at a reasonable cost, to create and manage a complex and diversified portfolio of such securities or other assets, rights or liabilities.

As per claims 2, 8-12 Keiser discloses an investment vehicle ("i. e, financial management system") for enabling a plurality of investors to selectively ("i. e, see column 2 line 60") buy and sell interests ("i. e, assets rights") in each of a plurality of different individual securities traded on at least one financial market, comprising: a plurality of accounts through which the plurality of investors ("i. e, client computers") can buy and sell the interests ("i. e, assets rights") in the plurality of securities, each of the accounts corresponding to at least one of the plurality of investors (Note abstract and see column 2 line 60 and lines 10-20 and column) and a graphical user interface.(see column 2 lines 60-65) and, each of the orders can include one or more limit requests, and each of the one or more limit requests can apply to a plurality of securities included in the order. (see column 20 lines 50-63 and column 2 lines 10-20 and column 23 lines 63-67 and column 24 lines 1-15).

Keiser fails to explicitly teach wherein, for each of the plurality of individual securities, interests in the security which are bought or sold by the at least one investor can correspond to a selected fractionalized market unit of the security, and wherein the investment vehicle enables the investors to organizing holdings in the corresponding accounts into one or more groups that can be defined by the investors to suit the investors portfolio structuring desires and wherein for each account, the corresponding investor can specify an allocation factor for each security and for each group included in the account, the allocation factor for a group specifying a percentage of a total amount to be used to purchase interests in securities for the account in which the group is located, and the allocation factor for a security specifying a percentage of a total amount to be to be used to purchase interests in securities for the group in which the security is located, or if the security is not in a group, a percentage of the total amount to be used to purchase interests in securities for the account in which the security is located and where the system enables the investor to transmit to the investment vehicle orders to buy and sell the interest in the plurality of securities.

However Wallman disclose a computer-based system, without incurring any additional costs, investors to purchase or sell small and even fractional-units of shares (See column 21 lines 15-60) and an investor program that allows an investor to create and modify an investor portfolio according to the investor's desired (see column 12 line 50 and column 17 lines 20-30 and column 19 lines 45-65 and column 20 line 5-15) and additionally, if a group of investors so desire, the investors can all provide information to the system so that other investors who they permit or who are in their same group can have access to the overall portfolio of the group as a whole--either for monitoring purposes or for analysis or for trade execution. In such instance the system would identify the group as a separate group within the general demographic database, and access to the portfolio and securities maintained by the group or the leaders of the group would be permitted to members of the group (see column 40 lines 30-35) and allocating a total dollar amount being invested by the investor among a plurality of assets or liabilities meeting a criteria entered by the investor by allocating to each of the plurality of assets or liabilities one of equal dollar amounts and capitalization-weighted dollar amounts (See column 51 lines 25-30) and in addition, the system of the present invention optionally includes an investor program executing on an investor's personal computer, which program prompts the investor for investor identification information and investor preferences, transmits investor identification and investor preferences to the processor, and enables the investor to interact with the processor to select multiple assets/liabilities to create an investor portfolio commensurate with the percentage allocation of investment assets. The investor program can include a graphical investor interface displaying a risk and a differential return of the entire investor portfolio relative to standard industry measurements to the investor and on absolute scales. Also, the investor program enables the investor to adjust the percentage allocation of investment assets and the investor portfolio. Moreover, the investor program communicates to the processor as trading data via one of the communication links investor identification information along with any trades of assets/liabilities to be executed to create or modify an investor's portfolio to ensure an investor's actual portfolio matches an investor's desired portfolio (see column 12 lines 35-50) and unlike all traditional brokerages that



Art Unit: 3628

charge a commission or a fee based on a per transaction basis, or that receive their compensation (including items like payment for order flow) on a per share or per trade basis because they make their money from investors trading, the investor under the present invention can be charged a flat periodic fee (such as a monthly or annual fee as might be charged by certain financial planners) or an asset based fee comprised of a certain amount of the assets held in the system (such as are usually charged by mutual funds), or a combination of such periodic and asset based fees, or a combination of such fees and a transaction based fee (see column 12 line 65 and column 13 line 5) and allocation factor for security specifying a percentage of total amount (See column 26 lines 10-25 and column 27 lines 30-35 and column 11 lines 30-40) and designed to provide a mechanism for a whole new financial investing system that currently does not exist. It allows investors, with expert assistance, to create, manage and modify a complex portfolio that reflects the investor's own preferences.

It allows the investor to ensure that his portfolio is diversified and that it reflects the level of risk he wishes to assume. The computer-based system of the present invention also increases the investor's control over matters like what stocks he owns, the taxes he pays, and how his shares will be voted. And it permits him to purchase and sell whole portfolios and specific securities, and fractional interests in shares of securities all for a low cost that is less than or competitive to trades of single securities through discount brokers or having an interest in mutual funds(see column 42 lines 5-19 and column 37 lines 29-57) and brokers generally execute trades when received, thereby providing "immediate" executions. There are exceptions, however. For example, a trade can be a "limit" order meaning that it can be executed only at a specific price or better. Limit orders are generally executed immediately whenever the price reaches the limit. Trades can also be set for execution at the "open" or "close," meaning the trade will be executed as part of the opening or closing call auction procedures, or upon the satisfaction of certain other conditions or at certain other times as the customer may specify. (see column 8 lines 14-23).

Therefore it would have been to one of ordinary skill in the art at the time the invention was made to modify the teachings of Keiser to include wherein, for each of the plurality of individual securities, interests in the security which are bought or sold by the at least one investor can correspond to a selected fractionalized market unit of the security, and wherein the investment vehicle enables the investors to organizing holdings in the corresponding accounts into one or more groups that can be defined by the investors to suit the investors portfolio structuring desires and wherein for each account, the corresponding investor can specify an allocation factor for each security and for each group included in the account, the allocation factor for a group specifying a percentage of a total amount to be used to purchase interests in securities for the account in which the group is located, and the allocation factor for a security specifying a percentage of a total amount to be to be used to purchase interests in securities for the group in which the security is located, or if the security is not in a group, a percentage of the total amount to be used to purchase interests in securities for the account in which the security is located and where the system enables the investor to transmit to the investment vehicle orders to buy and sell the interest in the plurality of securities taught by Wallman in order to electronically trading and investing in securities or other assets, rights or liabilities, such as commodities or futures. More particularly, the present invention relates to a method and apparatus for electronically trading over wired and wireless networks, including over the Internet, and investing in securities or other assets, rights or liabilities that enables a user, at a reasonable cost, to create and manage a complex and diversified portfolio of such securities or other assets, rights or liabilities.

As per claims 3,13-16, Keiser discloses an investment vehicle for enabling a plurality of investors to selectively buy and sell interests in each of a plurality of different individual securities traded on at least one financial market, comprising:  
a plurality of accounts through which the plurality of investors ("i. e, client computers") can transmit orders to buy and sell the interests ("i. e, assets rights") in the plurality of securities, each of the accounts corresponding to at least one of the plurality of investors (Note abstract and see column 2 lines 10-20) and graphical user interface

Art Unit: 3628

(see column 2 lines 60-65) and, each of the orders can include one or more limit requests, and each of the one or more limit requests can apply to a plurality of securities included in the order. (see column 20 lines 50-63 and column 2 lines 10-20 and column 23 lines 63-67 and column 24 lines 1-15).

Keiser fails to explicitly teach wherein each of the investors is charged a fixed commission for each order that is accepted and acted upon by the investment vehicle on behalf of the investor and the commission being determined irrespective of the number of different securities that are involved with the order, the number of shares of each security involved in the order, the value of the investor's portfolio, and the fact that the order may include requests to both buy and sell interests in securities, and wherein each of the securities involved in the order is allocated a percentage of the commission charged, the percentage being derived by dividing the value of the interest of each security purchased or sold by the total value of the interests of all the securities purchased or sold and wherein the graphical user interface provides the investors with dynamically re-configurable building blocks, each representing at least one of a security and a group of securities held in the accounts, to enable the investors to build , re configure and manage the accounts in a visually intuitive manner and to visually offer the investors portfolio information for accounts and where the system enables the investor to transmit to the investment vehicle orders to buy and sell the interest in the plurality of securities and where the system enables the investor to transmit to the investment vehicle orders to buy and sell the interest in the plurality of securities.

However Wallman discloses and unlike all traditional brokerages that charge a commission or a fee based on a per transaction basis, or that receive their compensation (including items like payment for order flow) on a per share or per trade basis because they make their money from investors trading, the investor under the present invention can be charged a flat periodic fee (such as a monthly or annual fee as might be charged by certain financial planners) or an asset based fee comprised of a certain amount of the assets held in the system (such as are usually charged by mutual funds), or a combination of such periodic and asset based fees, or a combination of such fees and a transaction based fee (see column 12 line 65 and column 13 line 5)

Art Unit: 3628

and a computer-based system, without incurring any additional costs, investors to purchase or sell small--and even fractional-units of shares (See column 21 lines 15-60) and additionally, if a group of investors so desire, the investors can all provide information to the system so that other investors who they permit or who are in their same group can have access to the overall portfolio of the group as a whole--either for monitoring purposes or for analysis or for trade execution. In such instance the system would identify the group as a separate group within the general demographic database, and access to the portfolio and securities maintained by the group or the leaders of the group would be permitted to members of the group (see column 40 lines 30-35) and allocating a total dollar amount being invested by the investor among a plurality of assets or liabilities meeting a criteria entered by the investor by allocating to each of the plurality of assets or liabilities one of equal dollar amounts and capitalization-weighted dollar amounts (See column 51 lines 25-30) and in addition, the system of the present invention optionally includes an investor program executing on an investor's personal computer, which program prompts the investor for investor identification information and investor preferences, transmits investor identification and investor preferences to the processor, and enables the investor to interact with the processor to select multiple assets/liabilities to create an investor portfolio commensurate with the percentage allocation of investment assets. The investor program can include a measurements to the investor and on absolute scales. Also, the investor program enables the investor to adjust the percentage allocation of investment assets and the investor portfolio. Moreover, the investor program communicates to the processor as trading data via one of the communication links investor identification information along with any trades of assets/liabilities to be executed to create or modify an investor's portfolio to ensure an investor's actual portfolio matches an investor's desired portfolio (see column 12 lines 35-50) and allocation factor for security specifying a percentage of total amount (See column 26 lines 10-25 and column 27 lines 30-35 and column 11 lines 30-40) and an investor program that allows an investor to create and modify an investor portfolio according to the investor's desired (see column 12 line 50 and column 17 lines 20-30 and column 19 lines 45-65 and column 20 line 5-15) and designed to provide a

Art Unit: 3628

mechanism for a whole new financial investing system that currently does not exist it allows investors, with expert assistance, to create, manage and modify a complex portfolio that reflects the investor's own preferences it allows the investor to ensure that his portfolio is diversified and that it reflects the level of risk he wishes to assume. The computer-based system of the present invention also increases the investor's control over matters like what stocks he owns, the taxes he pays, and how his shares will be voted. And it permits him to purchase and sell whole portfolios and specific securities, and fractional interests in shares of securities--all for a low cost that is less than or competitive to trades of single securities through discount brokers or having an interest in mutual funds(see column 42 lines 5-19 and column 37 lines 29-57) and brokers generally execute trades when received, thereby providing "immediate" executions. There are exceptions, however. For example, a trade can be a "limit" order meaning that it can be executed only at a specific price or better. Limit orders are generally executed immediately whenever the price reaches the limit. Trades can also be set for execution at the "open" or "close," meaning the trade will be executed as part of the opening or closing call auction procedures, or upon the satisfaction of certain other conditions or at certain other times as the customer may specify. (see column 8 lines 14-23).

Therefore it would have been to one of ordinary skill in the art at the time the invention was made to modify the teachings of Keiser to include teach wherein each of the investors is charged a fixed commission for each order that is accepted and acted upon by the investment vehicle on behalf of the investor and the commission being determined irrespective of the number of different securities that are involved with the order, the number of shares of each security involved in the order, the value of the investor's portfolio, and the fact that the order may include requests to both buy and sell interests in securities, and wherein each of the securities involved in the order is allocated a percentage of the commission charged, the percentage being derived by dividing the value of the interest of each security purchased or sold by the total value of the interests of all the securities purchased or sold and wherein the graphical user interface provides the investors with dynamically re-configurable building blocks, each

Art Unit: 3628

representing at least one of a security and a group of securities held in the accounts, to enable the investors to build , re configure and manage the accounts in a visually intuitive manner and to visually offer the investors portfolio information for accounts and where the system enables the investor to transmit to the investment vehicle orders to buy and sell the interest in the plurality of securities and where the system enables the investor to transmit to the investment vehicle orders to buy and sell the interest in the plurality of securities taught by Wallman in order to for the investor to pay for services provided by the investment vehicle.

As per claims 4, 17-19, Keiser discloses an investment vehicle ("i. e, financial management system") for enabling a plurality of investors ("i. e, client computers") to selectively ("i. e, see column 2 line 60) buy and sell interests ("i. e, assets rights") in each of a plurality of different individual securities traded on at least one financial market, comprising:

a plurality of accounts through which the plurality of investors can buy and sell the interests in the plurality of securities, each of the accounts corresponding to at least one of the plurality of investors. (See column 2 lines 10-20 and column 2 line 60) and, each of the orders can include one or more limit requests, and each of the one or more limit requests can apply to a plurality of securities included in the order. (see column 20 lines 50-63 and column 2 lines 10-20 and column 23 lines 63-67 and column 24 lines 1-15).

However Keiser fails to explicitly teach wherein the investment vehicle enables the investors to organize using graphical user interface, holdings in the corresponding accounts into one or more groups that can be defined by the investors to suit the investors portfolio structuring desires, wherein for each account, the corresponding investor can specify an allocation factor for each security, for each group and for each sub-group included in the account, the allocation factor for a group specifying a percentage of a total amount to be used to purchase interests in securities for the account in which the group is located, the allocation factor for a sub-group specifying a percentage of a total amount to be used to purchase interests in securities for the group in which the sub-group is located, and the allocation factor for a security specifying a percentage of a total amount to be to be used to purchase interests in securities for the

group or sub-group in which the security is located, or if the security is not in a group or sub-group, a percentage of the total amount to be used to purchase interests in securities for the account in which the security is located and where the system enables the investor to transmit to the investment vehicle orders to buy and sell the interest in the plurality of securities and where the system enables the investor to transmit to the investment vehicle orders to buy and sell the interest in the plurality of securities.

However Wallman disclose an investor program that allows an investor to create and modify an investor portfolio according to the investor's desired (see column 12 line 50 and column 17 lines 20-30 and column 19 lines 45-65 and column 20 line 5-15) and a computer-based system, without incurring any additional costs, investors to purchase or sell small-and even fractional-units of shares (See column 21 lines 15-60) and additionally, if a group of investors so desire, the investors can all provide information to the system so that other investors who they permit or who are in their same group can have access to the overall portfolio of the group as a whole-either for monitoring purposes or for analysis or for trade execution. In such instance the system would identify the group as a separate group within the general demographic database, and access to the portfolio and securities maintained by the group or the leaders of the group would be permitted to members of the group (see column 40 lines 30-35) and allocating a total dollar amount being invested by the investor among a plurality of assets or liabilities meeting a criteria entered by the investor by allocating to each of the plurality of assets or liabilities one of equal dollar amounts and capitalization-weighted dollar amounts (See column 51 lines 25-30)and in addition, the system of the present invention optionally includes an investor program executing on an investor's personal computer, which program prompts the investor for investor identification information and investor preferences, transmits investor identification and investor preferences to the processor, and enables the investor to interact with the processor to select multiple assets/liabilities to create an investor portfolio commensurate with the percentage allocation of investment assets. The investor program can include a graphical investor interface displaying a risk and a differential return of the entire investor portfolio relative to standard industry measurements to the investor and on absolute scales. Also, the

Art Unit: 3628

investor program enables the investor to adjust the percentage allocation of investment assets and the investor portfolio. Moreover, the investor program communicates to the processor as trading data via one of the communication links investor identification information along with any trades of assets/liabilities to be executed to create or modify an investor's portfolio to ensure an investor's actual portfolio matches an investor's desired portfolio (see column 12 lines 35-50) and unlike all traditional brokerages that charge a commission or a fee based on a per transaction basis, or that receive their compensation (including items like payment for order flow) on a per share or per trade basis because they make their money from investors trading, the investor under the present invention can be charged a flat periodic fee (such as a monthly or annual fee as might be charged by certain financial planners) or an asset based fee comprised of a certain amount of the assets held in the system (such as are usually charged by mutual funds), or a combination of such periodic and asset based fees, or a combination of such fees and a transaction based fee (see column 12 line 65 and column 13 line 5) and allocation factor for security specifying a percentage of total amount (See column 26 lines 10-25 and column 27 lines 30-35 and column 11 lines 30-40) and designed to provide a mechanism for a whole new financial investing system that currently does not exist. It allows investors, with expert assistance, to create, manage and modify a complex portfolio that reflects the investor's own preferences.

It allows the investor to ensure that his portfolio is diversified and that it reflects the level of risk he wishes to assume. The computer-based system of the present invention also increases the investor's control over matters like what stocks he owns, the taxes he pays, and how his shares will be voted. And it permits him to purchase and sell whole portfolios and specific securities, and fractional interests in shares of securities--all for a low cost that is less than or competitive to trades of single securities through discount brokers or having an interest in mutual funds(see column 42 lines 5-19 and column 37 lines 29-57) and brokers generally execute trades when received, thereby providing "immediate" executions. There are exceptions, however. For example, a trade can be a "limit" order meaning that it can be executed only at a specific price or better. Limit orders are generally executed



Art Unit: 3628

immediately whenever the price reaches the limit. Trades can also be set for execution at the "open" or "close," meaning the trade will be executed as part of the opening or closing call auction procedures, or upon the satisfaction of certain other conditions or at certain other times as the customer may specify. (see column 8 lines 14-23).

Therefore it would have been to one of ordinary skill in the art at the time the invention was made to modify the teachings of Keiser to include wherein the investment vehicle enables the investors to organize using graphical user interface, holdings in the corresponding accounts into one or more groups that can be defined by the investors to suit the investors portfolio structuring desires, wherein for each account, the corresponding investor can specify an allocation factor for each security, for each group and for each sub-group included in the account, the allocation factor for a group specifying a percentage of a total amount to be used to purchase interests in securities for the account in which the group is located, the allocation factor for a sub-group specifying a percentage of a total amount to be used to purchase interests in securities for the group in which the sub-group is located, and the allocation factor for a security specifying a percentage of a total amount to be to be used to purchase interests in securities for the group or sub-group in which the security is located, or if the security is not in a group or sub-group, a percentage of the total amount to be used to purchase interests in securities for the account in which the security is located and where the system enables the investor to transmit to the investment vehicle orders to buy and sell the interest in the plurality of securities taught by Wallman in order to electronically trade and invest in securities or other assets, rights or liabilities, such as commodities or futures. More particularly, the present invention relates to a method and apparatus for electronically trading over wired and wireless networks, including over the Internet, and investing in securities or other assets, rights or liabilities that enables a user, at a reasonable cost, to create and manage a complex and diversified portfolio of such securities or other assets, rights or liabilities.

As per claims 5, 20, Keiser discloses an investment vehicle for enabling a plurality of investors to selectively buy and sell interests in each of a plurality of different individual securities traded on at least one financial market, comprising: a plurality of accounts through which the plurality of investors can buy and sell the interests in the plurality of securities, each of the accounts corresponding to at least one of the plurality of investors (Note abstract and see column 2 lines 10-20) and a graphical user interface. (see column 2 lines 60-65) and, each of the orders can include one or more limit requests, and each of the one or more limit requests can apply to a plurality of securities included in the order. (see column 20 lines 50-63 and column 2 lines 10-20 and column 23 lines 63-67 and column 24 lines 1-15).

Keiser fails to explicitly teach wherein for each account corresponding investor or investor can organizing holdings in the account in a hierarchical nature and wherein the investor or investors is provided with a visual representation of the account showing the hierarchical nature and wherein the graphical user interface provides the investors with dynamically re-configurable building blocks, each representing at least one of a security and a group of securities held in the accounts, to enable the investors to build, re-configure and manage the accounts in a visually intuitive manner and to visually offer the investor or investors portfolio information for the account and where the system enables the investor to transmit to the investment vehicle orders to buy and sell the interest in the plurality of securities.

However Wallman discloses a computer-based system, without incurring any additional costs, investors to purchase or sell small--and even fractional-units of shares (See column 21 lines 15-60) and additionally, if a group of investors so desire, the investors can all provide information to the system so that other investors who they permit or who are in their same group can have access to the overall portfolio of the group as a whole--either for monitoring purposes or for analysis or for trade execution. In such instance the system would identify the group as a separate group within the general demographic database, and access to the portfolio and securities maintained by the group or the leaders of the group would be permitted to members of the group (see column 40 lines 30-35) and The investor program can include a graphical investor

Art Unit: 3628

interface displaying a risk and a differential return of the entire investor portfolio relative to standard industry measurements to the investor and on absolute scales. Also, the investor program enables the investor to adjust the percentage allocation of investment assets and the investor portfolio (See column 12 lines 35-45 and column 47 lines 21-30) and designed to provide a mechanism for a whole new financial investing system that currently does not exist. It allows investors, with expert assistance, to create, manage and modify a complex portfolio that reflects the investor's own references it allows the investor to ensure that his portfolio is diversified and that it reflects the level of risk he wishes to assume. The computer-based system of the present invention also increases the investor's control over matters like what stocks he owns, the taxes he pays, and how his shares will be voted. And it permits him to purchase and sell whole portfolios and specific securities, and fractional interests in shares of securities all for a low cost that is less than or competitive to trades of single securities through discount brokers or having an interest in mutual funds(see column 42 lines 5-19 and column 37 lines 29-57) and brokers generally execute trades when received, thereby providing "immediate" executions. There

are exceptions, however. For example, a trade can be a "limit" order meaning that it can be executed only at a specific price or better. Limit orders are generally executed immediately whenever the price reaches the limit. Trades can also be set for execution at the "open" or "close," meaning the trade will be executed as part of the opening or closing call auction procedures, or upon the satisfaction of certain other conditions or at certain other times as the customer may specify. (see column 8 lines 14-23).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings Keiser to include wherein for each account corresponding investor or investor can organizing holdings in the account in a hierarchical nature and wherein the investor or investors is provided with a visual representation of the account showing the hierarchical nature and wherein the graphical user interface provides the investors with dynamically re-configurable building blocks, each representing at least one of a security and a group of securities held in the

Art Unit: 3628

accounts, to enable the investors to build, re-configure and manage the accounts in a visually intuitive manner and to visually offer the investors portfolio information for the account and where the system enables the investor to transmit to the investment vehicle orders to buy and sell the interest in the plurality of securities taught by Wallman in order to modify and display his/her holdings in an hierarchical order.

As per claim 6, Keiser fails to explicitly teach the investor can specify for holdings in percentages of the total value of the account to which the values of the holdings should correspond, and wherein the investment vehicle reviews the investor's account and compares the holdings in the account with the specified percentages, and upon finding a discrepancy between the actual holdings and the specified percentages, which discrepancy is above a level set by the investor, notifies the investor of the discrepancy.

However Wallman discloses once the investor selects his desired portfolio based on his various preferences as to specific assets or liabilities to be included in the portfolio, that portfolio may include different historical and expected levels of return than necessary to achieve the investor's stated financial goals and provides an indication to the investor that these selections now require a modification of either the investor's specific asset/liability preferences or the percentage allocation to reach his investment objectives. The system does this by comparing the historical and expected rates of returns of the investor's portfolio to the rates of return assumed in the asset allocation models using known probabilistic methods including value at risk and sensitivity analysis, and when determining a difference exists, suggesting an adjustment in the percentage allocation to correct for the difference so that the desired financial goals can be achieved within the constraints set by the investor. To the extent these goals cannot be achieved, the present invention informs the investor that the risk return levels are not sufficient to reach the established goals. Moreover, the system provides further information to the investor as to what returns and levels of investment would be necessary to satisfy various financial goals modified to take into account the investor's risk preferences as provided to the system. In addition, the asset allocation model to be used utilizes probabilistic estimates of the likelihood of meeting those goals given

Art Unit: 3628

various asset allocations. In the case where the investor steps through this series of inquiries in the asset allocation model-which, as noted, is optional-the investor is presented with an output that is then used as an input to the next stage: namely, building the specific portfolio. (see column 24 lines 1-32).

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Keiser to include specifying for holdings in percentages of the total value of the account to which the values of the holdings should correspond, and wherein the investment vehicle reviews the investor's account and compares the holdings in the account with the specified percentages, and upon finding a discrepancy between the actual holdings and the specified percentages, which discrepancy is above a level set by the investor, notifies the investor of the discrepancy taught by Wallman in order to compare the holdings in the account with the based on specified percentages.

As per claim 21 Keiser discloses wherein the investment vehicle enables the investor to include within a single order separate limit order request for one or more of the securities included in the order, wherein each of the separate limit requests can be valid for a defined length of time and wherein the separate limit requests can be executed independently of each other and still be considered part of the same order. (see column 20 lines 50-63 and column 2 lines 10-20 and column 23 lines 63-67 and column 24 lines 1-15).

## CONCLUSION

### Response to Arguments

5. Applicant's arguments filed on 11/09/2004 have been fully considered but are not persuasive for the following reasons.

6. In response to applicant's arguments regarding Keiser and Wallman.

7. In response Applicant's arguments that neither Keiser or Wallman teaches or suggest "each plurality of the orders can include one or more limit requests, and each of the one or more limit requests can apply to a plurality of securities included in the order" the examiner disagrees with Applicant's arguments, further the examiner apologizes for indicating that these features were only taught explicitly by Wallman upon

reexamination and reconsideration it was realize that these limitations were also addressed in a combination of teachings, as disclose by Keiser where it stated the term trade or the term trade order also includes limit orders and each of the orders can include one or more limit requests, and each of the one or more limit requests can apply to a plurality of securities included in the order. see column 20 lines 50-63 and column 2 lines 10-20 and column 23 lines 63-67 and column 24 lines 1-15.

Wallman also discloses brokers generally execute trades when received, thereby providing "immediate" executions. There are exceptions, however. For example, a trade can be a "limit" order meaning that it can be executed only at a specific price or better. Limit orders are generally executed immediately whenever the price reaches the limit. Trades can also be set for execution at the "open" or "close," meaning the trade will be executed as part of the opening or closing call auction procedures, or upon the satisfaction of certain other conditions or at certain other times as the customer may specify.(see column 8 lines 14-23).

It is obviously clear that Keiser and Wallman discloses these features with out a doubt. The Examiner submit that it is also the responsibility of Applicant's to read reference in its entirety.

8. In response to applicant arguments against the references individually, one cannot show nonobviousness by attacking the reference individually where the rejections are based on a combination of references. See *In Keller*, 642 F.2d, 208 USPQ 871 (CCPA 1981); *In re Merk & Co.*, 800 F.2d 1091, 231 USPTQ 375 (Fed. Cir. 1986).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

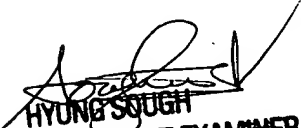
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Souh can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Art Unit: 3628

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

December 10, 2004

  
HYUNG SOUGH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600